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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/604,411	07/18/2003	Walter Ribic	R04P01-US	1410
30008	7590	08/04/2005	EXAMINER	
GUDRUN E. HUCKETT DRAUDT LONSSTR. 53 WUPPERTAL, 42289 GERMANY			SLACK, NAKO N	
			ART UNIT	PAPER NUMBER
			3635	

DATE MAILED: 08/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/604,411	RIBIC, WALTER	
	Examiner	Art Unit	
	Naoko Slack	3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23,25-37 and 39-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 22,23,31,32,37 and 39-42 is/are allowed.
- 6) ☒ Claim(s) 1-3,5,7,8,15,16,26,27 and 33 is/are rejected.
- 7) ☒ Claim(s) 4,6,9-14,17-21,25,28-30 and 34-36 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 September 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

In response to applicant's amendment received May 30, 2005, amendments to the specification and claims have been entered. Claims 24 and 38 have been canceled as requested. Claims 1-23, 25-37, and 39-42 are pending.

Response to Remarks

Applicant states that the prior art device to Osanai (US Patent 5,632,125) differs from applicant's invention for the following reasons:

Applicant states that "the '125 patent does not disclose any flat framed element". However, the previous Office action clearly stated that Osanai discloses flat frame elements (4) in Figure 3. See page 3 of previous Office action.

Applicant states that "the seals with respect to Fig. 3 of the '125 patent are by no means comparable with the seals 22 according to the present invention – rather, the seals 22 can only be compared with the seals 44 and 46". While applicant states that the seals of the instant invention are distinguished from the seals of the prior art, applicant's claims do not state any structural features that make this distinction.

Applicant states that "there is no thermal insulation provided according to the '125 patent between the post sections and the framed elements". However, thermal insulation is not claimed. The phrase "for thermally insulating" (Claim 1) comprises a statement of intended use. Applicant must positively claim thermal insulation for it to be considered a structural component of the system.

Applicant states that "the glass panels 4 of the '125 patent do not have a frame and are not attached to the holding sections." For structural elements to be "attached", they do not have to be in direct contact with each other. The glass panels are indirectly attached to the holding sections, as all components of the system are attached to each other. Applicant may use the term "contact" or similar term to indicate that two components are in direct contact with each other.

Finally, applicant states that "the seals 20 of the '125 patent do not form any chamber with the mullions; and, accordingly, the holding sections are not enclosed in such a chamber". However, Figure 3 clearly shows the seals (20) in combination with the post (10) and front portions (17) forming a chamber that encloses the holding sections (16).

Claim Objections

Claims 25 and 29 are objected to because of the following informalities:

Claim 25 depends from canceled claim 24.

Claim 29 depends from canceled claim 38.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 3635

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5, 7, 8, 15, 26, 27 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by US Patent 5,632,125 to Osanai.

Claim 1:

Osanai discloses a structural element system for the construction industry, comprising post sections (10, Figure 3), framed flat elements (4, Figure 3), holding sections (16, Figure 3), and seals (20, Figure 3) wherein, for thermal insulation of the post sections and the framed flat elements, the holding sections are attached on the post sections; wherein the framed flat elements are attached to the holding sections; wherein the seals together with the post sections form chambers; wherein, in the mounted state of the structural element system, the holding sections are enclosed in the chambers.

Claim 2:

Osanai discloses the structural element system wherein the post section is a box section having at least one rectangular box for securing the holding sections, respectively, wherein the rectangular box has on two parallel outer sides (11, Figure 3) and at least two holding lips (13A, Figure 3) configured to secure the holding sections (15, Figure 3).

Claim 3:

Osanai discloses a post section for a structural element system wherein the post section is a box section having at least one rectangular box (as best shown in Figure 3),

wherein the rectangular box has on two parallel outer sides (11, Figure 3) and at least two holding lips (12A and 13A, Figure 3) configured to secure holding sections (16), connecting members (7), wall fastening elements (14), and cover strips (17A).

Claim 5:

Osanai discloses two parallel legs for at least partially enclosing a holding section (legs 13 enclosing section 16).

Claims 7 and 8:

Osanai discloses a T-shaped recess (10, Figure 3) configured to suspend a connecting element (8, Figure 4).

Claim 15:

Osanai discloses a fastening element with a contact leg (top portion of 5) for attaching the fastening element to a wall and a support leg projecting at a right angle from the contact leg for supporting a connecting member (7).

Claim 26:

Osanai discloses a two-part profiled frame comprising outer frame sections (17A-17C) and an inner frame section (16, Figure 3) wherein the inner and outer frame sections are locked with one another, a flat framing element (4) being clamped between the outer and inner frames, wherein the outer frame is attached to the post section by the inner frame member.

Claim 27:

The outer frame sections comprise hooks (17C) formed on a leg.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 5,632,125 to Osanai.

Claim 16:

Osanai discloses a fastening element (bracket 5, Figure 3) connected to the support with a bolt, but fails to disclose that the contact leg is slotted. However, slotted brackets are well known in the art for permitting slight adjustments upon installation. It would have been obvious to one of ordinary skill in the art at the time the invention was made to put slotted holes on the contact leg of Osanai's bracket to facilitate installation.

Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 5,632,125 to Osanai as applied to claim 1 above and further in view of US Patent 3,055,460 to Maroney.

Claim 33:

While Osanai does not disclose bottom rails for ground attachment, Maroney discloses a vertical glazing system with bottom rails (16, Figure 4). It would have been obvious for one of ordinary skill in the art at the time the invention was made to provide Osanai with bottom rails for support of the glazing system.

Allowable Subject Matter

Claims 22, 23, 31, 32, 37, 39-42 are allowed.

Claim 25, if corrected to depend from claim 22, would be allowed.

Claims 4,6, 9-14, 17-21, 28, 30, and 34-36 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 29, if corrected to depend from claim 28, would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Final Action Necessitated By Amendment

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136 (a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Naoko Slack whose current telephone number is 571-272-6848. The examiner can normally be reached on Mon-Fri (6:00 am-2:30pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D. Friedman can be reached on 571-272-6842. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Naoko Slack
Primary Examiner
Art Unit 3635

NS
August 1, 2005